



**CBS CORPORATION**  
51 WEST 52 STREET  
NEW YORK, NEW YORK 10019-6188

(212) 975-4595  
FAX (212) 975-7292  
hfjaeckel@cbs.com

**HOWARD F. JAECKEL**  
VICE PRESIDENT, ASSOCIATE GENERAL COUNSEL

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FEC MAIL ROOM

2000 OCT 25 A 11:10

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

OCT 25 2 29 PM '00

**BY FAX (202-219-3923)**

Re: MUR 5102

Dear Ms. Smith:

October 24, 2000

I represent CBS Broadcasting Inc. ("CBS") in connection with the above matter, which concerns a complaint filed against CBS on behalf of Jeff Graham, Independence Party candidate for the U.S. Senate from the State of New York. (A "Designation of Counsel" form is attached herewith.) This will confirm my telephone conversation with you this morning in which I requested an extension of time until November 10, 2000 to reply to the complaint.

The complaint stems from a debate broadcast by WCBS-TV, a television station owned by CBS, of a debate between Hillary Clinton and Rick Lazio, the Democratic and Republican candidates for the above office. In essence, the complaint alleges that, in the absence of "pre-established objective criteria" for selecting the participants in the debate, WCBS-TV's journalistic decision that Mr. Graham should not be included has the effect of making the debate's broadcast an illegal campaign "contribution" in violation of the Federal Election Campaign Act.

CBS believes that this complaint raises fundamental constitutional issues concerning which the Commission should have the benefit of full briefing before proceeding further with this matter. In order to present the most thorough possible discussion of those issues, CBS is seeking a 10 day extension of time from the date on which we calculate our response would otherwise be due.\* Since the debate in question has

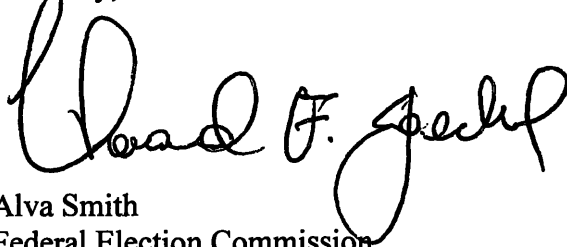
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\* The Commission sent the complaint by regular mail to CT Systems, Inc., CBS's agent for service of process, by letters dated October 3 and October 11, 2000, which were transmitted by CT Systems to the offices of CBS's corporate parent, Viacom Inc. ("Viacom"), on October 9 and October 16, 2000, respectively. The first of these letters was not received by the CBS Law Department until October 16. In this connection, I would note that CBS has previously requested that the Commission *not* send letters of this kind to CT Systems, but rather mail them directly to CBS's headquarters at 51 W. 52 Street, New York, NY 10019. This request was made in order to avoid a significant portion of the permitted response period being lost due to delay in the matter's coming to the attention of the responsible individuals. Moreover, CBS has previously designated the undersigned as its counsel in matters pending before the Commission. See Letters dated October 22 and November 1, 1999 from Howard F. Jaeckel, Vice President and Associate General Counsel, CBS Broadcasting Inc. to John R. Velasquez,

already occurred, and since WCBS-TV has no plans to broadcast another debate in connection with the New York senatorial election, no party will be prejudiced by the grant of the requested extension.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Alva F. Smith". The signature is fluid and cursive, with the first name "Alva" being more prominent.

Alva Smith  
Federal Election Commission  
Office of the General Counsel  
Washington, D.C. 20463

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Jr., Acting Central Enforcement Docket Supervisor, Federal Election Commission. In these circumstances, we respectfully submit that CBS should not be charged with the delay resulting from the Commission's having again sent time-sensitive materials to CT Systems, Inc., contrary to our express request.

In any event, the Commission's second letter enclosed an affidavit submitted by complainant which had not been included with its original letter. This second letter, enclosing new information, was not received even at the corporate headquarters of Viacom until October 16. On both of the above grounds, we believe it is appropriate to calculate the duration of the fifteen day response period from the latter date.

# STATEMENT OF DESIGNATION OF COUNSEL

MUR 5102

NAME OF COUNSEL: Howard F. Jaeckel

FIRM: CBS Broadcasting Inc.

ADDRESS: 51 W 52 Street

New York, NY 10019

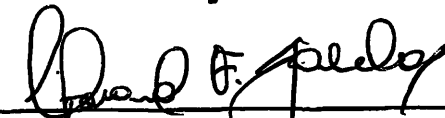
TELEPHONE: ( 212 ) 975-4595

FAX: ( 212 ) 975-7292

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

10/24/00

Date



Signature

Assistant Secretary  
CBS Broadcasting Inc.

RESPONDENT'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE: HOME(\_\_\_\_\_) \_\_\_\_\_

BUSINESS(\_\_\_\_\_) \_\_\_\_\_



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NEW YORK NEW YORK 10019-6188  
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**HOWARD F. JAECKEL**  
VICE PRESIDENT ASSOCIATE GENERAL COUNSEL

**FAX AND U.S. MAIL**

Re: MUR 4929

Dear Mr. Velasquez:

October 22, 1999

This is to advise you that CBS will file a response to the above-referenced complaint by November 5, 1999. In this regard, I note that your October 4, 1999 letter, which requested CBS's reply "within 15 days of receipt," was not in fact received by CBS (at its Pittsburgh office) until October 21, 1999. This delay was undoubtedly caused by the letter's being addressed to "CT Corporations Systems, Registered Agent" at 111 Eight Avenue, New York, New York. I would appreciate the Commission's correcting its records to indicate that all correspondence should in the future be addressed to CBS at its corporate headquarters at 51 W. 52 Street, New York, New York 10019. Service of process may also be effected at that address.

Thank you for your help in this matter.

Sincerely,

John R. Velasquez, Jr.  
Acting Central Enforcement Docket Supervisor  
Federal Election Commission  
Washington, DC 20463

cc: Jennifer H. Boyt

bcc: Lowy

HFJ/33914

21-04-405-1653



DF

**CBS CORPORATION**  
51 WEST 52 STREET  
NEW YORK NEW YORK 10019-6188  
(212) 975-4595  
FAX (212) 975-2185

**HOWARD F. JAECKEL**  
VICE PRESIDENT ASSOCIATE GENERAL COUNSEL

**BY FEDERAL EXPRESS**

Re: MUR 4929

Ladies and Gentlemen:

November 1, 1999

This is in response to a letter dated October 4, 1999, but not received by CBS Corporation ("CBS") until October 20, 1999, from John R. Velasquez, Jr., Acting Central Enforcement Supervisor for the Commission. Mr. Velasquez enclosed with his letter a complaint filed by Rhawn Joseph against CBS -- as well as ABC, NBC, *The New York Times*, *The Los Angeles Times*, and *The Washington Post*, among others -- alleging that coverage provided by these news organization to various presidential candidates constitutes "free advertising" for those candidates and therefore an illegal corporate campaign expenditure under the Federal Election Campaign Act.

These allegations are meritless on their face, since the Act expressly provides that

"[t]he term expenditure does not include --

Any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine or other political publication, unless the facilities are owned or controlled by any political party, political committee or candidate."

2 U.S.C. § 431(9)(A)(i). It is clear, therefore, that the news coverage to which Mr. Joseph objects does not fall within the purview of the Federal Elections Campaign Act. To the extent that Mr. Joseph asserts that such news coverage does not reflect a *bona fide* journalistic judgment as to the newsworthiness of the candidates to whom coverage has been afforded, but rather an attempt to promote those candidacies, he provides no factual or evidentiary support for those allegations whatsoever.

Moreover, if Mr. Joseph -- who apparently considers himself a candidate for the Republican presidential nomination -- believes that he has not received "equal opportunities" or fair coverage by CBS of his purported campaign, he should file a complaint with the Federal Communications Commission, which has exclusive primary jurisdiction over such matters. See, e.g., *Writers Guild of America v. FCC*, 609 F.2d 355 (9<sup>th</sup> Cir. 1979); *Morrisseau v. Mt. Mansfield Television*, 380 F. Supp. 512

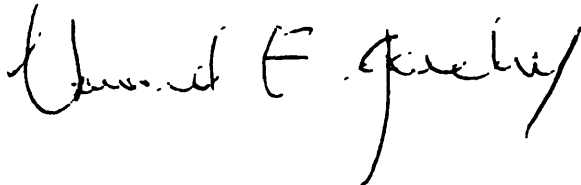
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(D. Vt. 1974); *Gordon v. National Broadcasting Co.*, 287 F. Supp 452 (S.D.N.Y. 1968); *Ahmed v. Levi*, 414 F. Supp 597 (E.D. Pa. 1976).<sup>1</sup>

For these reasons, no further Commission action is warranted with respect to this matter.

Very truly yours,



Office of the General Counsel  
Federal Elections Commission  
Washington, DC 20463

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<sup>1</sup> Such a complaint would likewise be clearly without merit. *See*, 47 U.S.C. § 315 (a) (1)-(4); *see also Chisholm v. FCC*, 538 F.2d 349 (D.C. Cir.), cert. denied, 429 U.S. 890 (19776).

STATEMENT OF DESIGNATION OF COUNSEL

MUR 4929

NAME OF COUNSEL: Howard F. Jaeckel

ADDRESS: CBS

51 W 52 Street

New York, NY 10019

TELEPHONE: 212 975-4595

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

November 1, 1999  
Date

Howard F. Jaeckel  
Signature  
Assistant Secretary

RESPONDENT'S NAME: CBS Corporation

ADDRESS: 51 W 52 Street

New York, NY 10019

HOME PHONE: \_\_\_\_\_

BUSINESS PHONE: 212 975-4321

21-04-405-1656